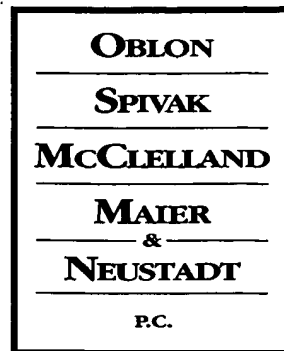




Docket No.: 246871US3DIV

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

GREGORY J. MAIER
(703) 413-3000
GMAIER@OBLON.COM

AKIHIRO YAMAZAKI
(703) 413-3000
AYAMAZAKI@OBLON.COM

RE: Application Serial No.: 10/743,864

Applicants: Hideyuki NOJIRI

Filing Date: December 24, 2003

For: DOUBLE EYELID FORMING TAPE OR STRING
AND METHOD OF MANUFACTURING THE SAME

Group Art Unit: 1771

Examiner: DESAI, ANISH P

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier

Registration No. 25,599

Customer Number

22850

(703) 413-3000 (phone)

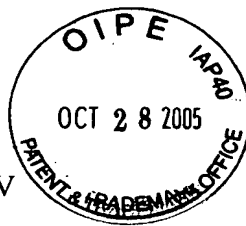
(703) 413-2220 (fax)

I:\USER\MDAVI\24S\246871\SH T CV REST.DOC

Akihiro Yamazaki

Registration No. 46,155

DOCKET NO: 246871US3DIV



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HIDEYUKI NOJIRI : EXAMINER: DESAI, ANISH P
SERIAL NO: 10/743,864 :
FILED: DECEMBER 24, 2003 : GROUP ART UNIT: 1771
FOR: DOUBLE EYELID FORMING TAPE :
OR STRING AND METHOD OF
MANUFACTURING THE SAME

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement stated in the Official Action dated September 29, 2005, Applicant provisionally elects Group (Invention) I, Claims 1-5, 7, 10, 11 and 15-19, drawn to a double eyelid forming tape comprising a resiliently elastic narrow tape, classified in Class 428, Subclass 343, and Class 132, Subclass 216.

Applicant respectfully traverses the outstanding Restriction Requirement for several reasons.

First, the outstanding Office Action asserts that the Inventions I and II are distinct each from the other under MPEP §806.05(f) because according to the Examiner, "a carrier sheet having an adhesive can be applied onto one or both of the surfaces of a resiliently elastic sheet member of a given length; the carrier sheet can then be removed from the adhesive surface; the holding portions with no adhering properties at both ends can be formed, and cutting the same in the widthwise directions into narrow strips." However,

without further information, such a finding lacks grounds upon which it can be evaluated whether in fact the proposed process is "materially different" under MPEP §806.05(f). Accordingly, it is respectfully submitted that the PTO has not carried its burden of proof to establish distinctness.

Furthermore, MPEP §803 states the following:

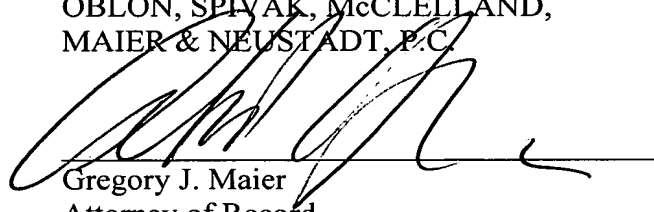
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application, Claims 1-5, 7, 10, 11 and 15-19 are directed to double eyelid forming tapes, and Claims 8, 13 and 14 to methods of manufacturing a double eyelid forming tape. Hence, it appears that these claims according to the present invention are part of an overlapping search area and that a search for Claims 1-5, 7, 10, 11 and 15-19 would necessarily include a search directed to Claims 8, 13 and 14 as well. It is therefore believed that there is no undue burden on the Examiner to search all the claims under MPEP §803, and Applicant respectfully traverses the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-5, 7, 8, 10, 11 and 13-19 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

Gregory J. Maier
Attorney of Record
Registration No. 25,599

Akihiro Yamazaki
Registration No. 46,155

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

GJM/AY/mda

I:\ATTY\AKY\24s\246871\DIVREST.DOC